IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO.4456 of 1999

DATED: 05.01.2007

Between:

P.Subramanyam.
...Petitioner

And

The Andhra Pradesh Power Generation
Corporation Limited, Vidyuth Soudha,
Hyderabad and ors.
...**Respondents**

THE HON'BLE SRI JUSTICE N.V.RAMANA

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Common order:

The petitioner claims to have worked with the respondents-APSEB as contract labour. It is his case that the respondents-APSEB having considered his case for absorption/selection in the light of B.P. Ms. No. 36, dated 18.05.1997, rejected his candidature on the ground that he did not possess the requisite qualifications to hold the post. Assailing the said action of the respondents, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the though the petitioner do not possess the requisite qualifications the qualifications possessed by him are sufficient for regular absorption and the action of the respondents in rejecting the candidature of the petitioner for absorption/selection in the post in which he worked as contract labour on the ground that the petitioner did not possess requisite qualifications is illegal and arbitrary.

The learned Standing Counsel for the respondents submitted that in B.P.Ms.No.36, dated 18-05-1997 had specifically mentioned that the educational qualifications required for various posts for absorption/selection of contract labourers shall be as prescribed in the Board's Service Regulations, which were in force on the date of his initial engagement, and no relaxation of educational qualifications or other technical qualifications shall be given.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents.

To consider whether the petitioner is entitled for relaxation of educational qualification, it is appropriate to refer to Condition No.5 (b) of B.P. Ms. 36, dated 18/05.1887, which prescribes the educational qualifications. The said

Condition No. 5(b) reads:

Educational Qualifications: Educational Qualifications shall be as per Board's Service Regulations in force at the time of their first engagement. There shall be no relaxation of educational qualifications or other relevant technical qualifications which are prescribed in the Service Regulations for such appointment.

From a reading of the above, it is clear that the candidate should possess the educational qualifications as prescribed in the Board's Service Regulations, which were in force at the time of his initial engagement, and no relaxation of educational or other relevant technical qualifications, prescribed in the Board's Service Regulations, shall be given.

Since it is the admitted case of the petitioner that he did not possess the requisite qualification as on the date of his initial engagement, having regard to Condition No.5(b) of B.P. Ms. No.36, dated 18.05.1997, which states that no relaxation in educational or other relevant technical qualifications can be given, no exception can be taken to the action of the respondents in rejecting the case of the petitioner for absorption/selection in the posts in which they worked with the contractors. In this context it would be appropriate to refer to the judgment of the apex Court in Civil Appeal No.3215 of 2002 and batch, dated 18.04.2002, wherein the apex Court having considered the question of grant of relaxation of prescribed qualifications, answered the same in the negative, holding as follows:

> "In our view, in the petitions before the High Court there was no question of considering public policy and the discussion on the law was totally besides the point involved in the matter. Limited issue was – whether before regularization of service of employees, the Board was bound to follow the eligibility conditions laid down in its proceedings dated 18.05.1997 and 31.12.1997. Benefit of regularization which was conferred on the employees solely depended upon eligibility of conditions including the age limit prescribed under the statutory regulations. The statutory regulations provide that there shall be no relaxation of age. In cases, where the Board has committed mistake in engaging under-age casual employees or has permitted the contractor to do so would not confer any right on such employees for being regularized on the basis of BPMS dated

18.05.1997.

In this view of the matter, the judgment rendered by the High Court cannot be sustained and is, therefore, set aside.

However, considering the fact that the respondents/casual employees/employees of the contractor/junior linemen are in service for more than 15 years, we do not think that this would be a fit case for disturbing their appointments made in pursuance of the order passed by the High Court.

Ordered accordingly. Appeals stand disposed of."

When the Board Service Regulations prescribes a particular qualification, the candidate seeking absorption/selection should possess such qualification, and this Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot relax the prescribed qualifications, if done it would amount to rewriting the service conditions.

The writ petition is devoid of merit and is accordingly dismissed. No costs.

N.V.RAMANA, J.

DATE: 05.01.2007
GRK/TVK

THE HON'BLE MR JUSTICE N.V. RAMANA

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